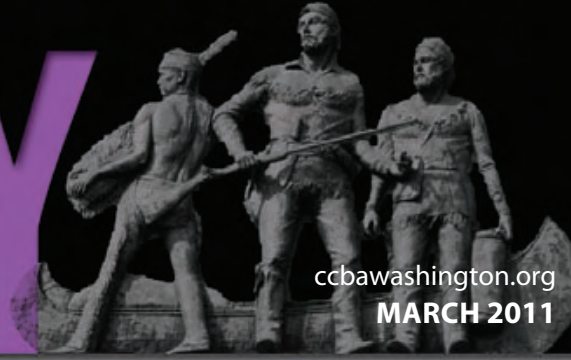
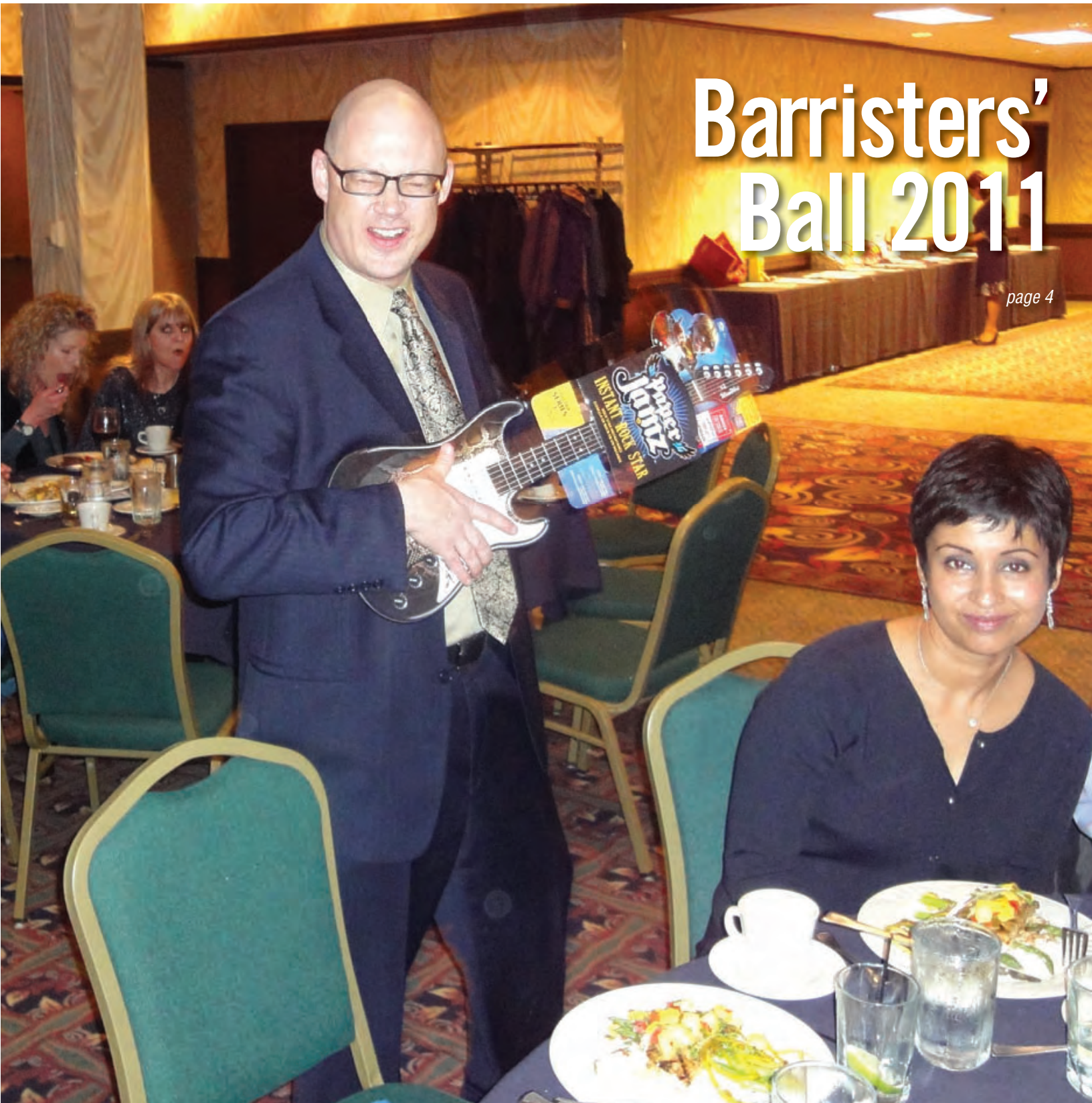


# HEARSAY



ccbawashington.org  
MARCH 2011

OFFICIAL NEWSLETTER OF THE CLARK COUNTY BAR ASSOCIATION



## Barristers' Ball 2011

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HEARSAY is published 12 times per year and is design edited by:  
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An annual subscription is included with annual membership dues. Members may purchase additional subscriptions for \$50.00 each. Letters, news items, upcoming events and announcements are welcome. Articles by members are accepted. Submissions should be presented in Microsoft Word and may be edited for length, clarity and style. Submissions by members are published at the editor's discretion and space available. Views expressed in articles represent the authors' opinions, not necessarily the CCBA's. The publication does not purport to offer legal advice.

CCBA OFFICE HOURS: Monday through Friday, 8:00 a.m. to 5:00 p.m.

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# PRESIDENT'S MESSAGE

## Barrister Ball Bash



**KURT RYLANDER**

*CCBA President*

“Beware the Ides of March” the soothsayer warned Gaius Julius Caesar, Dictator of Rome. The warning went unheeded, however, and Caesar was assassinated in the Roman Senate on the Ides of March, March 15, 44 B.C. What many people may not know was that, in addition to being a dictator, and a conqueror, Caesar started out as a trial lawyer, where he was notable for great oratory, with a flair for gestures and a high pitched voice, and for prosecuting governors who engaged in extortion and corruption. After that Caesar was a judge. Now we all know that judges have god-like powers, but in Caesar’s case it was particularly true. The Julii family believed that they were descended from Venus, Goddess of Love, and after Caesar was assassinated he was officially made a god by force of law.

More importantly, as we all know, the Romans liked to party. And so do lawyers. The Barrister’s Ball held January 29, 2011 at the Quay was a rousing success. The auction items were all purchased, in many cases after heavy bidding. Guitars, bottles of vodka, microbrews, martini kits, fishing trips, beach houses, etc. The manna was too numerous to list. The excellent attendance included judges, commissioners, lawyers, guests, Mayor Tim Leavitt, and a bar member in a kilt (was he a true Scotsman?). Awards were given with Emily Sheldrick receiving the Donald Simpson Award for Service to the Profession, and Judy Zeider receiving the Kenneth Weber Award for Service to the Com-

munity. The Volunteer Lawyer of the Year Award went to Scott Matthews and Ed Dawson. Thankfully nobody committed a blooper this year, and thus no one won the Alan Harvey Blooper Award. There was even a dancing performance that had all eyes peeled. Thanks go out to the Social Committee and the Bar Staff, as well as to Danny Liebman who donated a lot of time, despite not being on the committee.

By the time this goes to press, I will have turned forty-five and have practiced law for seventeen years, twelve of which have been in Clark County. Reflecting on this, and on the great times had at the Barrister’s Ball, leads me to the conclusion that our bar is the best in the Country. I practiced in Washington DC and Seattle, and have conducted litigation, and sometimes trials, in New York, Florida, California, Colorado, Utah, Oregon, and West Virginia. None of those bars comes even close to the professionalism and general bon homme that I have experienced in Clark County. Prosecuting attorneys and defense attorneys generally get along. Judges are actively involved in helping the bar and the community, including through the very popular American Inns of Court. Grudges are not long held, and regretted moments of wrath ignored or soon forgotten. Where else but in this great community. We truly have the luck of the Irish to live here. Happy St. Patrick’s Day.



### **CCBA General Meeting and Lunch**

**Monday, March 14, 2011 • 12:00-1:30 PM**

*(sign in begins at 11:45)*

**Red Lion at the Quay**

**Pasta Buffet \$25.00; \$50.00 with CLE (1 credit)**

**The general meeting will be followed by a one credit CLE, from 12:30 to 1:30 PM**



### **What Private Investigation Can Do for You**

featuring **Don Treco**, of Gumshoe Detective Agency, speaking about various uses of private investigation in civil and criminal practice areas.



Gumshoe Detective Agency, owner and Vancouver resident Don Treco has operated in California for 10 years and in Clark County for 2 years and maintains agencies in both states. He is retired law enforcement and his Agency has handled hundreds of cases including the arrest of a fugitive child abductor, and more.

**In an effort to better accommodate our members pre-paid registration is mandatory for lunch. Call 695-5975 for details**

# Who says lawyers can't cut loose?



**DAVID GREGERSON**  
*Hearsay Editor*

On January 29, the Clark County Bar Association held its signature annual event—Barristers' Ball—at the Inn at the Quay. The Ball drew 103 judges, lawyers, spouses, and significant others for a chance to dress up, socialize, boogie to a playlist chosen by CCBA President Kurt Rylander's daughter, and to raise money for a worthy cause.

This year's silent auction raised in excess of \$3,600 for the Volunteer Lawyers Project, said executive director Diane Wheeler. Last year's event resulted in a donation of over \$4,000 to SHARE.

Honors for Volunteer of the Year were shared by attorneys Ed Dawson and Scott Matthews. Both have contributed innumerable hours of heavy lifting on behalf of the Housing Justice Project, which provides courtroom assistance on Friday mornings to tenants who are being sued in unlawful detainer (eviction) and often face homelessness.

Emily Sheldrick received the Donald Simpson Award for service to the profession. Judy Zeider received the Ken Weber Award for service to the community in absentia. Alas, the Alan Harvey Award for memorable courtroom distinction drew no nomina-



CCBA Past President Mila Boyd and husband Chris Boyd.



Volunteers of the Year award co-recipients Ed Dawson and Scott Matthews.



Arin Dunn and Emily Sheldrick.



District Court Commissioner Kristen Parcher and Kurt Rylander.

tions this year, so Alan was more than happy to claim the award for himself and prove that his exploits in court are matched only by those on the dance floor.

The CCBA is open to all input and suggestions for next year's event, including venue, date, etc. For those who came, thanks for being in on the fun. For those who missed... .. See you at next year's event!



Prosecutor Tony Golik, wife Kathy, and Tom Duffie.



Maya Bhat-Gregerson, Emily Sheldrick, and Jane Clark.



Judge and Mrs. John Wulle, Tonya Rulli, and Vancouver Mayor Tim Leavitt.



Volunteer Lawyers Project board members and executive director Susan Arney, recipients of the auction proceeds.



Scott Horenstein, Commissioner Dan Stahnke, and Judge James Rulli.



Jolene Sell and Mila Boyd.

The Clark County Bar Association is pleased to announce its

## **Seventh Nuts and Bolts Lecture:**

### **~ Starting and Sustaining a Law Practice ~**

*by Attorneys Elizabeth Christy, Kathleen McCann, and Scott Horenstein*

**Wednesday, March 9, 3:00 – 5:00 PM, at the Red Lion at the Quay**

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This series is designed for those new to the practice of law and more senior practitioners interested in trying out something new. This month we look at the nuts and bolts of making the business work: How to get started, how to keep growing (or decide not to), and how to organize and prioritize the chores and details that keep it running.

The cost is \$50 (\$25 for non-attorneys), which will get you 2 CLE credits and the speakers' prepared materials to download. There is an extra fee if you want to pick up the materials at the door.

There will be excellent snacks and beverages and a sort of restrained party atmosphere. You shouldn't miss it.

**To register:** call Diane Wheeler at the CCBA, (360) 695-5975, or email: [diane@ccbawashington.org](mailto:diane@ccbawashington.org), or

**FAX this flyer back to Diane at (360) 737-6891 with your BAR NUMBER \_\_\_\_\_,**

**NAME \_\_\_\_\_ and PHONE # \_\_\_\_\_.**

---



**Elizabeth Christy** opened her family law practice in late 2007. She served as Secretary for the Clark County Bar Association's Family Law Section from 2008-2009, and has served as President from 2009 to present.

Elizabeth earned her Bachelor of Arts from the University of Oregon and her Juris Doctor from Golden Gate University. During part of her second year of law school, Elizabeth worked as an extern for Commissioner Slabach for the Unified Family Court of San Francisco's Superior Court of California.



**Scott J. Horenstein** is a life long resident of Vancouver, and the founder of the Scott Horenstein Law Firm, where his practice emphasizes domestic relations. He is past president of the Clark County Bar association, and past chairperson of the Washington State Bar Association's Family Law Section, and of the Washington Trial Lawyer's Association. He teaches community property law at Willamette and Lewis and Clark law schools, and has been Editor-in Chief for the Washington State Bar Association's Family Law Desk Book

**Kathleen McCann** is a sole practitioner in Vancouver, Washington, emphasizing family law, adoption, and guardianship in her practice. She has been practicing law in Clark County, Washington since 1981, attended University of Puget Sound as an undergraduate, University of Washington in graduate school and got her J.D. from the Lewis and Clark School of Law. She is a member of the Washington State Bar Family Law Executive Council. Kathleen worked as an associate for a sole practitioner during her first five years practicing law, for a small firm for the next three years and has had her own practice since 1989.

# Starting and Sustaining a Law Practice

## Elizabeth Christy: Hanging out your shingle

- Developing your practice with realistic goals
- Finances in regard to overhead and the IRS
- Advertising on a budget
- Learning techniques
- Organization techniques
- Balancing your life and setting boundaries
- Managing your reputation in the community

## Scott Horenstein: Why work for someone else for 60 hours a week?

- Defining your career goals early
- Looking for a firm that will fit your professional and personal goals
- Determining at the outset what the firm expects of you
- Understanding financial aspects of firm management as it relates to being an associate
- The path to partnership

## Kathleen McCann: Sustaining a Law Practice

- Opening/Closing files/File Organization/File retention
- Efficiency and the use of checklists and document templates

---

# Governor appoints Judge Swanger to Washington Traffic Safety Commission

Gov. Chris Gregoire has appointed District Court Judge James P. Swanger to the board of the Washington Traffic Safety Commission.

One of 10 members, including the Governor, he will help coordinate the state's traffic safety efforts with the goal of eliminating traffic deaths and serious injuries by 2030.

A lifelong Clark County resident, Judge Swanger was appointed judge in 2005 after serving as a court commissioner for six years.

He volunteers as a "Street Law" instructor at local high schools, helped start the student traffic court at Fort Vancouver High and served as an adjunct professor at Clark College for 11 years, teaching law-related classes.

He is a graduate of the College of Law at Willamette University, Brigham Young University and Hudson's Bay High School. He worked in the Clark County Prosecutor's Office and private practice before being named a commissioner and judge.

# Newly benched: Sonya Langsdorf



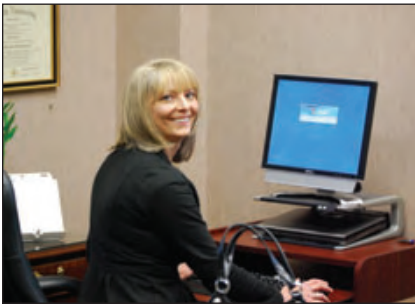
**SUZAN CLARK**

*Hearsay Special Correspondent*

When someone once cynically commented to Judge Shirley Hufstedler of the 9th Circuit court of Appeals that “The world doesn’t need any more lawyers or judges!” Judge Hufstedler replied, “There is always room for more good attorneys and good judges, particularly women.”

More than 25 years after Judge Hufstedler made that statement, those words remain truer than ever. Clark County recently gained two extremely qualified female judges on the District Court Bench within a year’s time. We previously profiled one of those women in this newsletter, Judge Osler, at the time of her appointment.

Judge Sonya Langsdorf received her law degree from Seattle University in 1994. Prior to attending law school, Langsdorf worked for Bristol-Myers Squibb as a research associate conducting AIDS research. She initially enrolled in law school with



Setting into new office in District Court chambers.

the intention of becoming a patent attorney and continuing her work at Bristol-Myers Squibb in their legal department. An internship with the Pierce County Prosecuting Attorney’s Office changed her future plans. Langsdorf discovered that she enjoyed the opportunity to inter-

act with people, something very much missing from her career as a scientist. She interviewed with several prosecutors’ offices around the state and accepted a position in Clark County.

She began her legal career as a deputy prosecuting attorney for the Clark County Prosecuting Attorney’s Office in 1995. Langsdorf spent her first 18 months with the office prosecuting cases in district court, where she now presides. She moved up the ranks into the felony division with assignments in juvenile court, the charging unit, the drug unit and the Children’s Justice Center.

Langsdorf spent her last seven years with the prosecutor’s office working in the child support unit. During her tenure in the child support unit she prosecuted criminal nonsupport cases and represented the state in paternity establishment and child support modification cases.

In July, 2008 she was appointed to the position of district court commissioner. Langsdorf quickly learned that an incredible volume of cases pass through district court and the majority of



Judge Langsdorf with husband Vaughn and son Griffin and daughter Peyton.

those cases involve people who are appearing in a courtroom for the first time in their lives. While most people appearing superior court are represented by attorneys, Langsdorf says in district court, “We deal with more people directly and we tend to see a more direct impact of our decisions on people.”

After winning an uncontested election for the seat vacated by retiring Judge Ken Eiseland, Langsdorf was sworn in as a district court judge on January 10, 2011. She handles the broad case load previously carried by Judge Eiseland. Many of the people she now sees had appeared in front of Judge Eiseland numerous times over the years and Langsdorf says “They definitely had a connection with him.” As a newer judge establishing her courtroom presence, she views herself as “Quite a bit more formal” than her predecessor. She strives to maintain consistency and fairness in dealing with the great volume of cases passing through her courtroom.

Langsdorf lives in Vancouver with her husband Vaughn, a high school math teacher at Jesuit High School in Portland and her son and daughter, ages 10 and 8 respectively. The kids keep them busy with soccer and other activities. Vaughn’s participation in Iron Man competitions inspired her to take up running. She runs an average of 26 miles per week. Langsdorf has competed in a couple of races, including a half marathon. She is currently training to compete in the Vancouver Marathon on Father’s Day, 2011.

In keeping with Judge Shirley Hufstedler’s assessment, it would seem clear that the district court can benefit greatly from Judge Langsdorf’s diverse background in both the legal and scientific arenas, sense of community and of family. There is definitely always room for more good judges, particularly women.



# CLARK COUNTY BAR ASSOCIATION CLE SERIES

## Nuts & Bolts: What Every Practitioner Needs to Know

The Clark County Bar Association is delighted to announce that it will host a CLE series geared to the new members of the legal community titled ***Nuts & Bolts: What Every Practitioner Needs to Know***. The series will vary from one to three hours every second Wednesday of the month. Each session will feature knowledgeable attorneys in a particular area of practice, and focus on the basic issues and procedures confronting an area of law. The current list of dates and topics are as follows:

Date	Topic	Speaker	Committee Member
March 9, 2011	Flying Solo: Starting & Managing your successful law practice	Kathy McCann Elizabeth Christy Scott Horenstein	Scott Matthews
April 20, 2011	Evidence: Criminal and Civil		Suzan Clark
May 11, 2011	Consumer Protection		Scott Matthews
June 8, 2011	Family Law		Emily Sheldrick
July 13, 2011	Setting up and Advising the Small Business		Emily Sheldrick Mark Beatty
August 10, 2011	Wills and Estates		Carol McCaulley
September 14, 2011	Criminal Trial		Suzan Clark
October 12, 2011	Bankruptcy		

Each one of the series is on \$50 or you can purchase a discount card and attend 6 of the 12 events for \$250. We'll meet at the Quay at 3:00 and be done in time for happy hour. Materials will be provided free for download for those who register three days before the seminar, or for a modest fee at the door.

### Call 695-5975 to register

For firms with new associates, this series is a great way to support your local bar association and provide new associates with an introduction to the community and a broad set of useful legal skills and information.

### Best office space in the Vancouver east side at Tech Center

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**Contact Michele Faulk at 503-598-5530 to arrange a tour of the space**

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**Contact Teresa at 360.693.4111**

# Letter to the Editor



**KURT RYLANDER**  
CCBA President

Recently a young member of the bar wrote a letter to the editor, to which I, as President, have decided to respond. It was a long letter, lamenting the quality of the referrals from the Southwest Washington Lawyer Referral Service (SWLRS), and giving as an example a sad individual who left long voicemails concerning the apparently wide spread conspiracy working against him.

I too have had some reality challenged individuals referred by SWLRS. Thus, I can sympathize, especially with a new lawyer who may have been counting on referrals from SWLRS to help build a practice. Every lawyer in town practicing more than 10 years knows how hard it is to build a practice up. The Bar exists to help its members, and takes suggestions and letters from Bar members very seriously.

We receive substantial positive feedback about the SWLRS. Individuals who need an attorney for a specific reason such as a divorce, personal injury, estate planning and representation in a criminal matter tend to follow through with actually hiring counsel. However, a fair number of individuals call for a referral to an attorney to take on the system for them in a less than realistic manner.

The ultimate suggestion from the letter writer was that (a) perhaps SWLRS should do a better job of filtering referrals, and (b) perhaps SWLRS should report the number of referrals ultimately retained by a lawyer rather than the number of referrals made. Unfortunately, neither of the suggestions are possible.

First, the referrals are taken and made by non-attorney staff members. They have neither the training nor the legal right to filter legal requests. Filtering would require legal training.

Second, there is no practical way for SWLRS to know how many referrals were ultimately retained. Lawyers don't report back to SWLRS on whether they were retained or not, and even if it were requested, it would be heeded only by a few, and thus still lead to an unreliable statistic.

While unable to satisfy those suggestions, I can make some. SWLRS is one of many tools to build a practice. Get active in the bar by volunteering and serving, join the American Inns of Court, take older attorneys, and Judges, to lunch, treat opposing counsel professionally and honestly. Building a practice occurs through relationships, and ultimately those lead to the referrals that are valuable.



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# He Captured My Cookie



**JEAN McCOY**

*Hearsay Special Correspondent*

If you have kids you may have heard this before, but perhaps not relating to your on-line internet sessions. On January 28, 2011, attorneys Richard McLeod, from Klarquist Sparkman in Portland, and Steve Glista from Rational Law, LLC also in Portland, presented a seminar to CCBA members on Emerging Legal Issues Related to Internet Use. The materials ranged from anonymity, free speech, defamation and cyberbullying, to jurisdiction and evidentiary issues in litigation. We know we need to be careful, but to what extent can the average lawyer be vulnerable?

Rule 1: Be careful of where you are, and what you are looking at. It is possible if you are viewing content on the internet in a free wi-fi situation, that someone in your vicinity can capture your

“cookie” (a piece of text stored on your computer by the web browser) and hijack your session. If you are purchasing something, your payment information can be captured and used by the hijacker. Don’t use a non-secure wi-fi system for anything that you would otherwise wish to be private.

Rule 2: Be careful of where you send clients their e-mail communications. Sending e-mail to a client’s work computer could actually be deemed waiver of the privacy of your communications, possibly waiving the attorney client privilege. Understand where e-mails to your client are being received, and encourage use of a secure and private address that cannot be accessed by an employer, or saved on an employer’s system.

Rule 3: What we think is real may not be. Text, e-mails and photos can be tampered with or forged. If you are using any media as evidence in a case, be sure you understand where it came from, who printed it and whether you should have some form of expert verification of authenticity.

Rule 4: Along the same lines as Rule 3, if a client tells you he or she did not draft something or post something, believe with a dose of healthy skepticism. Posts or other media can be forged and rather than telling a client you have proof in black and white of their statements, do some investigating to find out what is real.

There are many interesting issues being raised on a daily basis. Just recently the National Labor Relations Board ruled that employees have the right to post negative comments about their employers on the internet, notwithstanding the company’s rules regarding internet usage. Who gets to decide what happens to the deceased’s Facebook page? Many old-standing rules we thought we knew have a new twist or are shifting definitions as the internet becomes integral to everyday business. Keep watching the news.

Our CLE hosts gave us interesting information and provided us with a link for one-hour of free CLE time. Log on to <http://ipcolloquium.com/current.html> and there is a webinar that you can receive Washington credit for reviewing. Sometimes there is such a thing as a free cookie!

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# Young Lawyers' Section



**CRYSTAL LAMBERT**  
YLS President

The Clark County Young Lawyers Section is planning on an action packed 2011 and we're off to a great start! On February 22nd, Commissioner Daniel Stahnke taught us what not to do in the courtroom to save us from contempt sanctions and a possible visit to our local "gray bar hotel"! Thank you Commissioner Stahnke!

We will be meeting monthly for Happy Hour on the 2nd Thursday at Top Shelf on 6th and Main and a CLE taught by a local member of the bench on the 4th Tuesday over lunch at El Presidente on Evergreen and C Street. In August, we will host our 6th Annual Young vs. Senior Lawyer BBQ and Softball Game (bringing another YLS win for a total 5/1). Our 2nd Annual Holiday Social will occur in December. We are also planning a service project and additional social events – details to follow.

## MARCH EVENTS:

### **Happy Hour**

March 10, 2011

5:00 - 6:30 p.m.

Top Shelf, 6th and Main

Everyone is Welcome!! (including Judges/Commissioners and our more experienced colleagues (a.k.a. "senior" lawyers) who are willing to share words of wisdom

## **CLE**

Guest Speaker: Honorable Commissioner Carin Schienberg

Topic: Domestic Violence

March 22, 2011

12:00 - 1:00 p.m.

El Presidente, Evergreen and C Street

\$20 for CCBA Members; \$25 for non-members;

\$10 for law students

Commissioner Carin Schienberg has graciously agreed to serve as our Young Lawyers Section Senior Advisor. We appreciate her help and guidance.

Our elected officers for 2011 are:

- President: Crystal Lambert, crystal@lambertlawpllc.com
- Vice President: Beckie Pettis, bpettis@mbavancouverlaw.com
- Treasurer/Secretary: Abby Nelson, anelson@vancouverlaw.net

We welcome you to contact us if you have any questions, suggestions, or would like to help with upcoming events.

## Upcoming CLE Schedule

Date	Area of Law	Topic	Speakers	Committee chair
March 30, 2011	Mediation	Ethical Issues in Family Law Attorney Perspective Judicial Perspective	Richard Spiers	Jane Clark
April (2 day CLE)	Guardian Ad Litem	Title 26	Josephine Townsend	Diane Wheeler
April 26, 2011 12 – 1 pm Brown Bag Lunch		Legal Implications of New Health Care Laws	Carol McCaulley	Carol McCaulley
May	Real Property	Loan Modification	Rob Russell	Scott Matthews
June (2-3) hours	Civil	Condemnation		Jim Sellers - Carol McCaulley
July 3 hour	Intellectual Property			Mark Beatty

# SUPERIOR COURT BENCH/BAR COMMITTEE MEETING MINUTES

FEBRUARY 8, 2011



**JOHN FAIRGRIEVE**  
*CCBA Vice President*

The meeting began shortly after noon. Persons present were Judge John Nichols, Judge Lewis, Ann Christian, Clark Fridley, Heather Beasley, Kurt Rylander, Jolene Sell, Clay Spencer, Suzan Clark, Emily Sheldrick and John Fairgrieve.

## OLD BUSINESS:

1. Competency evaluations being conducted on out-of-custody criminal defendants by Western State Hospital (WSH): Ann Christian mentioned that there is a continuing problem with the delay between the times a court orders an out of custody criminal defendant evaluated for competency, diminished capacity or insanity and when WSH can perform the evaluation. Ann mentioned that the backlog of evaluations to be completed currently exceeds 200 and that it is growing. Ann stated that she was continuing to work with WSH representatives on the matter.

2. Appointment of Counsel in Criminal Cases: Ann Christian stated that the recommendations of the Subcommittee of the Washington State Bar Association (WSBA) Council on Public Defense (COD) on Standards for Indigent Defense Services had been accepted by the COD with one minor exception. Ann stated that the recommendations would be forwarded to the WSBA Board of Governors (BOG) for review, and from there to the Supreme Court for possible adoption.

3. Felony criminal defense contracts restricted to class B and C felony cases: Ann Christian stated that progress was being made in increasing the skills and experience of the attorneys who have felony contracts limited to class B and C felonies, and that one of the attorneys in question was working pro bono with another attorney on a class A felony to increase his or her skills.

4. Newton pleas in criminal cases: At last month's meeting Judge Lewis expressed concern about the language in some plea offers made by the State which prohibited a defendant from making a Newton or Alford plea, noting that a criminal defendant has a constitutional right to enter such a guilty plea. The relevant cases are *State v. Newton*, 87 Wn. 2d 363 (1976) and *North Carolina v. Alford*, 400 U.S. 25, 27 L. Ed. 2d 162, 91 S. Ct. 160

(1970). The portion of the State's plea offer at issue reads: "This agreement requires Defendant to admit relevant conduct. Absent advance notice and consent of the undersigned prosecutor, pleas which do not admit relevant conduct (Newton or Alford pleas) are not allowed. Defendant breaches this agreement if he enters such a plea without prior approval of the prosecutor."

John Fairgrieve explained to the committee that the Prosecuting Attorney's (PA's) office adopted the language for a number of reasons. First, the PA's office often has a single deputy prosecuting attorney (DPA) handle a change of plea docket, and that DPA is often not the DPA the cases on the docket are assigned to. When a defendant enters a Newton plea the court is still required to find a factual basis to support the plea and may rely on any reliable source that is part of the record to do so, including a prosecutor's recital of the evidence that he or she would offer at trial. If the DPA handling the docket does not have advance notice that the defendant will enter a Newton plea he or she may be unprepared to lay an adequate factual basis to support the plea, forcing the DPA to read through the file in an attempt to establish a factual basis or to set the matter over to a future docket. Both situations waste the time of all parties involved.

Second, the Washington Supreme Court has held that Newton and Alford pleas do not conclusively establish a defendant's guilt for purposes of any subsequent civil proceedings by the victim of the crime against the defendant. See *Clark v. Baines*, 150 Wn. 2d 905, 84 P. 3d 245 (2004). Consequently, it may be in the State's interest in certain cases to require that a defendant admit to a factual basis that proves that he committed the crime(s) he is pleading guilty to.

Finally, John explained that there are societal and moral reasons for requiring, in certain cases, that a criminal defendant state factually what he did that makes him guilty of the crime(s) to which he is pleading guilty to or adopt a factual statement provided in writing or stated orally by defense counsel.

Judge Lewis then asked what standards the PA's office will use to determine when to seek to prohibit a defendant from entering a Newton plea. He also asked what the PA's office policy is when a defendant wants to accept all other aspects of the plea offer but announces for the first time on the change of plea docket that he or she wants to enter a Newton plea? Allow the plea to go forward or strike the change of plea from the docket?

In the same conversation it was noted that there is a good deal of confusion about the PA's office policy concerning the use of the Drug Offender Sentencing Alternative (DOSA).

Finally, there was a question about the stipulated nature of the plea offer, and concern from some members of the committee that stipulating to the plea offer precluded defense counsel from arguing for a reduction in legal financial obligations on behalf of indigent defendants.

John stated that he would raise these concerns in the PA's office and report back to the committee in March.

5. Unlawful Detainer Docket: Emily Sheldrick asked how the docket was running. Judge Nichols reported that it was working well in general and that it was continuing to improve.

## NEW BUSINESS

1. Judge Lewis reported that the judges would not be ordering alcohol testing in the future as a condition of pre-trial release. He stated that there is no money available at the current time to pay for such testing.

2. Judge Lewis reported that the 2011 Mock Trial program would take place on Wednesday and Thursday afternoon and evening, February 23 and 24. Any attorneys interested in volunteering to be a rater or assist in some other way should contact Jill Sasser at [jill.sasser@landerholm.com](mailto:jill.sasser@landerholm.com).

3. It was announced that Judge Nichols would be taking over the Superior Court Drug Court program starting April 1, 2011.

4. There was a broad discussion concerning what use could be made of unpublished Washington Court of Appeals decisions in briefing by attorneys. General Rule (GR) 14.1 states that a party may not cite as authority an unpublished opinion of the Court of Appeals. However, the rule does not seem to prohibit any use of unpublished opinions. The committee did not seem to have a consensus of opinion on the issue, with views ranging from unpublished cases could not be used for almost any purpose to a view that portions of unpublished cases could be used without attribution with minor modifications.

3. Next Bench Bar committee meeting: The committee will meet next on Tuesday, March 8, 2011 at noon in Judge Nichols' jury room.


Respectfully submitted,

John Fairgrieve


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# District Court Bench/Bar Meeting Minutes

## SPECIAL PRESENTATIONS:

Judge Zimmerman introduced special Speaker Tony Golik, Clark County Prosecuting Attorney. Tony distributed copies of his organizational chart and list of phone numbers for his staff. (Attached).

Golik discussed the changes in his office which were precipitated by the loss of four senior members through retirement. John Fairgrieve is Chief Deputy. Scott Jackson is now serving as the chief criminal deputy. Golik has placed experienced prosecutors in the lead roles of each of his teams. Jeff McCarty will lead the District Court team in addition to the Felony Docket and Juvenile teams, while Jennifer Nugent will lead the DV team. There are fewer team leaders but more case officers.

Public disclosure requests are creating a major work load issue for the PA's Office. Golik would like to assign two prosecutors, one criminal and one civil, to this task each on a halftime basis to meet the demand.

The office has been operating with one paid intern and several volunteer interns. The office has funding for 3 paid part-time interns and Golik will be moving quickly to fill those positions.

Golik has been working on expanding the guidelines for Diversion. He plans to be accessible to District Court and remains supportive of Therapeutic and Veterans Court. He anticipates that the trial rate, primarily for felonies, could increase. Golik plans to handle a small caseload as time and situation permit.

Attendance: Judge Zimmerman, Maggie Evanson, Dianne Sweet, Chuck Buckley, Barry Brandenburg, Steve Rucker, Ann Christian, Mark Muenster, Todd Pascoe, Andrew Wheeler, Judge Osler, Bob Vukanovich, Tony Golik, Sandy Slyter

Next meeting: April 13th 12:00 p.m. Veterans Court Presentation

Location: Judge Zimmerman's Courtroom

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# CCBA Monthly Board of Directors' Meeting



**ANDREW WHEELER**  
CCBA Secretary

The February 2nd Clark County Bar Association Broad Meeting found the Board reviewing the successes of the Barrister's Ball, while discussing potential improvements for the 2012 celebration. The Board was pleased with the revenue raised for the Volunteer Lawyers Program (VLP) and was appreciative of the assistance provided by the CCBA Social Committee. CCBA President Kurt Rylander suggested that "Save the Date" notices be sent earlier to allow the calendars of judicial officers and other members of the bar to remain open for the 2012 installment. The Board also discussed future venues for the Barrister's Ball and re-configuring the respective planning committees.

The M-1 preparation process for the CCBA's shuttered health insurance program is drawing to a conclusion. The final infor-

mation is being conveyed to professional document preparers for a March 1st submission deadline.

The Board additionally discussed the Lawyer Referral Service and its pro's and con's as a source of new clients. CCBA President Kurt Rylander is authoring an article for Hearsay regarding the mechanics of the service and its inherent advantages and limitations.

The next Board of Director's meeting is scheduled for Wednesday, March 2, 2011, at the CCBA offices, and is open to all members.



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# What CCBA Members Are Doing About Town



**RAISA JUDICATA**  
*Guest Gossip Columnist*



A little bird told us that Eugene Graff will be joining his spouse, Meredith McKell Graff, in practice at McKell Graff, PLLC on March 1, 2011. We understand the plan has been in the works since 1994 when they decided to change careers and go to law school.

We have a slew of husband and wife lawyers in Clark County.... hmmm, that might make a nice feature article.



Jill Kurtz receiving the 2010 Citizen of the Year from Battle Ground Mayor Mike Ciraulo.

Speaking of all-in-the-family, Jill Kurtz and David Kurtz's son is applying to law school and has been seen about the courthouse entering probates at ex parte. He has big shoes to fill. David is a crack defense attorney and Jill was recently honored by the Battle Ground Chamber of Commerce as "Citizen of the Year". On January 28, 2011 at the Heathman Lodge the City held its annual Recognition Banquet and Mayor Mike Ciraulo gave Jill her honor for her work in 2010 with local non-profits.



Nancy Nellor is among the Board of the Community Foundation for Southwest Washington bearing gifts for Children's Center.

The great thing about the legal community in Clark County is that most of us have an altruistic side. Yet another local non-profit, Children's Center, put out its list of 2010 donors and

Steve and Peg Busick are listed as "Transformation" donors with a donation of \$20,000 and above. Also listed with significant donations were Dennis Lane, Jim McClaskey, Nellor Retsinas Crawford, PLLC, Scott Anders and Tonya Riddell. Nancy Nellor is on the Board for the Community Foundation for Southwest

Washington, and that foundation gave a grant of \$8,800.00 to allow Children's Center to obtain a video training system to ensure real time feedback to interns and therapists. Children's Center is a mental health agency that serves children and has been in our community for over twenty years. Good work, people!

And finally, your author is excited to introduce a new and fun section of Double Hearsay for your viewing pleasure. It is called "Twins!?!", where Hollywood meets the 'Couv. Have you ever thought about how much some of our local counsel look like movie stars? Well, now is their chance to shine. If you have thoughts for other look-alikes, be sure to e-mail your favorite columnist! We promise to honor the ladies next month!



Is it Jack Black or is it Judge Robert Lewis? Both enjoy the comedy that is the human condition.



Robert Russell moonlighting as Guy Pearce (from L.A. Confidential)? P.S. Nice 5 o'clock shadow!



We wouldn't go so far as to say Commissioner Dan Stahnke is part of the Brat Pack in his younger years, but Emilio Estevez certainly was!



Make it so, Paul Henderson! You have to love the leader of the Starship Enterprise!

Your esteemed colleague Raisa Judicata can't be everywhere. If you have a tidbit of news you would like the world to know, send a note to [raisajudicata@gmail.com](mailto:raisajudicata@gmail.com). Raisa usually checks in the first Monday of every month. Remember, it is your ethical duty to support your member organization with juicy gossip and goings on.



## GETTING TO KNOW: **BRIAN K. GERST**

*"Getting to Know" is a monthly feature designed to better acquaint the membership with our local attorneys, judges and other people of interest to the Clark County bench and bar. This month's subject is Attorney Brian K. Gerst*



### ***Where did you grow up and how did you end up in Vancouver?***

I grew up in Hillsboro, Oregon on a Christmas tree farm with my parents and two older siblings.

I have local attorneys Chris Boyd and Mila Chase to thank for turning me on to an opening with Landerholm's Real Estate Practice Group. That was six years ago this July. Back in 2005, I had a strong desire to leave insurance defense and establish a real property/civil litigation practice. Landerholm had exactly what I was looking for.

### ***What or who inspired you to practice law?***

Probably my social studies and history teachers growing up (my favorite courses) as well as this fine group of lawyers at Rieke & Savage, over in Portland, back in the mid 90's. At that time, I was fresh back from the Peace Corps and landed a legal assistant job – the attorneys had an indigent defense contract. I received great experience writing motions, taking witness statements, interviewing clients and getting organized for trial. I was inspired by the attorneys' dedication and unapologetic advocacy, even in the face of, more often than not, a pile of bad evidence.

### ***Fondest/funniest memory from law school?***

The birth of my first daughter Ashley and graduating... then passing the bar exam.

### ***What would you be doing if you were not an attorney?***

Hair model.

### ***Pets?***

We have a West Highland Terrier named Pearl. She's 3 years old.

### ***Is it possible to be friends with opposing counsel?***

#### ***Why or why not?***

If there is mutual trust, yes, of course. I have a few examples.

Back in 2004, I had occasion to wrangle with Mr. David Ride-nour on a case involving an alleged defective septic tank. I represented the septic tank inspector and David represented the unhappy buyer. While David was primarily going after the seller and seller's agents, he absurdly alleged that my client was complicit in the seller's alleged misdeeds. David's matter of fact liability and damages analysis was presented in a professional manner; and it was probably correct. I respected his advocacy skills, overall approach and lack of ego. I consider David to be a good friend... now that we settled that case.

I also recall going toe to toe with Zach Stoumbos at a Summary Judgment hearing where my folks had a solid statute of limitations defense and Zach, with all that grace and charm, and some authority, convinced the local court to deny my clients' request for dismissal. While I still maintain that his analysis and conclusions were incorrect, I appreciated his advocacy and courtroom demeanor. It was obvious that he liked being a lawyer and was a man with respect for the law and the process. Zach is a friend and colleague, but yes, I'm still a little bitter about that one.

There are many other examples, but we probably don't have the space.

### ***Wife and kids?***

Amy and I live with our two daughters in Camas. Ashley is 10 and Emma is 6—it's a house full of women and little ole me.

### ***What advice would you give an attorney beginning a practice or to a graduate coming out of law school?***

I would advise an attorney beginning a practice to work hard, communicate effectively with your clients and listen to your clients, get that retainer up front and do the necessary work/research to advocate well and always follow your gut.

***If you could change one thing about the local court system, what would you change?***

Believe it or not, I actually liked the regimented trial scheduling orders, with mandated discovery cutoffs, mandatory disclosures and deadlines, similar to federal court, but I understand we just don't do it that way.

***What has been the biggest lesson of your legal career?***

I have learned that I can be an effective advocate without having to be a jerk. I have also learned that while we lawyers try to analyze legal issues based on logic, evidence and reason, many of our clients have difficulty separating their personal involvement, agenda and/or prejudices from the material issues and evidence in a case. I have learned that my job, in part, is to counsel clients and help them make good "business" decisions based upon logic and reason, not emotion. I am not always successful in this endeavor.

***What is the best piece of advice you have received along the way?***

To be honest, I don't know the best piece of advice I've received over the years. I do recall a co-worker advising me to

"be careful" of Thai women. Well, I didn't listen to her, so I guess that was the best advice I didn't follow. (My wife is from Thailand and is now an American citizen)

***How do you balance work with the demands of having a family?***

Thankfully, the folks at Landerholm understand the demands of having a young family. My wife and kids work pretty hard with me and share the household responsibilities.

***What activities do you enjoy in your spare time?***

I enjoy black and white photography, including developing film and enlarging my own prints. I still enjoy running but do it with less frequency. I'm signing up for the Shamrock Run over in Portland, so let's hope my body remembers how to do this. But most of the time, I'm with the family doing what needs to be done.

***Favorite vacation destination (or dream vacation destination)?***

I would have to say Thailand or Indonesia. The beaches are incredible, the food is amazing and the people are gentle and fun.

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Statistics for January include 54 clients seen in advice clinics, 12 in Family Law, 13 in Family Law paperwork review clinic, 2 in the Bankruptcy clinic, 7 in the General Law clinic and 20 in Housing Justice Project clinic. We placed 4 cases with an attorney for direct representation. There were 97 hours of volunteer attorney time donated.

Congratulations to the 2010 Volunteer of the Year winners: Ed Dawson and Scott Matthews. Ed and Scott have been principal volunteers in the Housing Justice Project during 2010. The Housing Justice Project was started in October 2009 to help low-income tenants who are being evicted or who are at risk of eviction. We have an advice clinic for evictions every Thursday and we are in the courthouse every Friday for the Unlawful Detainer docket. We put on three CLE's for training in residential evictions. Ed and Scott attended all three CLE's and have been at the courthouse almost every Friday as well as doing many of the Thursday clinics.

Scott and Ed are both second career attorneys. Scott has a PhD in physics and worked in that field. Ed taught high school for many years. Ed is retired and easing into being an attorney. Scott has opened his own practice. I am very pleased to be able to honor them with the volunteer of the year award and appreciate all they have done for the Housing Justice Project.

Thanks, Susan

**MANY THANKS TO ALL THE ATTORNEYS AND  
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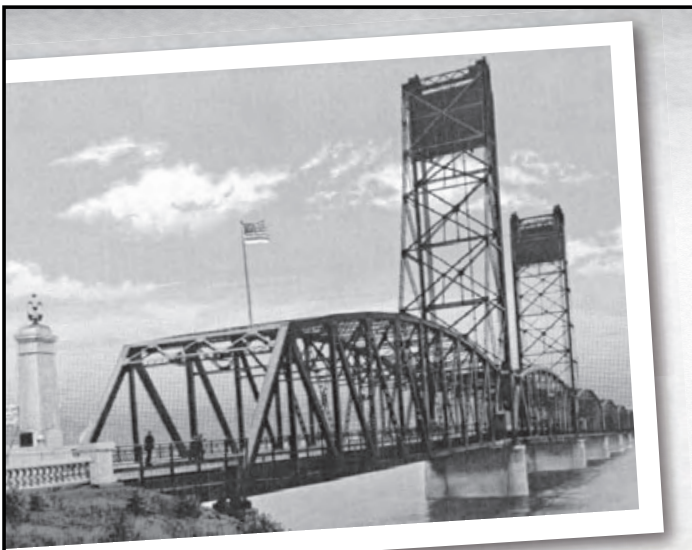
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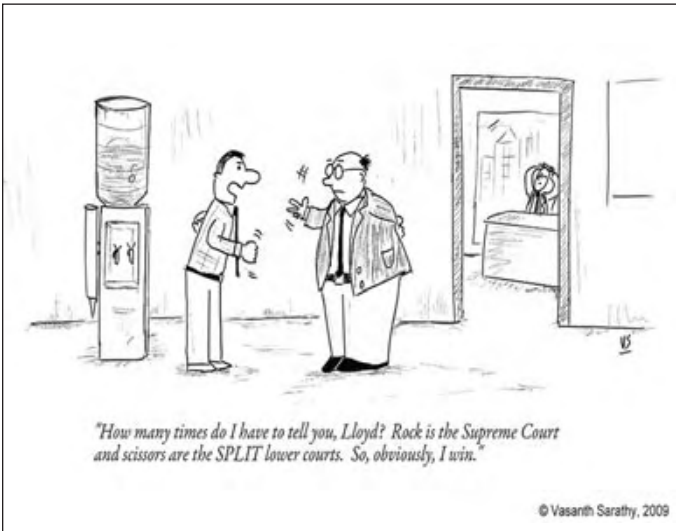


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# LAW LIBRARY NEWS



**MARIA SOSNOWSKI**  
*Law Librarian*

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# UPCOMING EVENTS

MEETING

**March 2, 2011**

CCBA Hearsay meeting; CCBA office, 500 West 8th Street, Suite 65 at 11:30 am

MEETING

**March 2, 2011**

CCBA Board meeting; CCBA office, 500 West 8th Street, Suite 65 at 12:00 pm

MEETING

**March 10, 2011**

Family Law Section meeting; Tommy O's 10:30 am

MEETING

CLE

**March 15, 2011**

CLE committee meeting Clark County Bar Association 500 West 8th St., Ste 65. Meeting will begin at 12:15 pm

MEETING

**March 16, 2011**

Inns of Court – Judge Lewis– ENVY. Who song and Larry's – 5:00 to 6:30 pm

MEETING

**March 17, 2011**

CCBA Web Site committee meeting; Nellor|Retsinas|Crawford at 1201 Main

## SW WASHINGTON LAWYER REFERRAL SERVICE



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Criminal .....	28
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Family .....	52
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